

STATE OF SOUTH CAROLINA)	BEFORE THE ADMINISTRATOR OF
)	THE SOUTH CAROLINA DEPARTMENT
COUNTY OF RICHLAND)	OF CONSUMER AFFAIRS
SOUTH CAROLINA)	DOCKET NO. 9937
DEPARTMENT OF)	
CONSUMER AFFAIRS,)	
)	
PETITIONER,)	
)	
v.)	ORDER
)	
MARIA YOLAN HOOK,)	
)	
RESPONDENT.)	
_____)	

STATEMENT OF THE CASE

This matter comes before me by way of the Department's Notice of Hearing and Petition in the above referenced Docket Number, dated August 31, 1999. A hearing was scheduled for October 13, 1999. On that date the hearing was convened, and Respondent Hook indicated she preferred not to go forward without the advise of an attorney. The hearing was postponed and reconvened on November 1, 1999. Ms. Hook indicated she was prepared to go forward after having been advised by her attorney. In its Petition, Staff alleged that Ms. Hook had been convicted of a felony of attempted robbery while armed with a deadly weapon on or about December 16, 1998. Staff further alleged Respondent Hook failed to notify the Department of this fact and that at least on one occasion, March 9, 1999, Ms. Hook signed a notarized Supplemental Form A indicating that she had not been convicted of a crime involving breach of trust, moral turpitude, fraud or dishonest dealing in the last ten years, and this form was submitted by Alpha Omega Mortgage Group.

SUMMARY OF EVIDENCE

The Staff submitted evidence that Ms. Hook was convicted of the crime of attempted robbery while armed with a deadly weapon by submitting a true copy of an indictment, arraignment and guilty plea for that crime dated December 16, 1998 (Exhibit 5). It submitted a copy of the Supplemental Form A sworn to and signed by Ms. Hook on March 9, 1999, with the question concerning whether the employee had ever been convicted of a crime clearly marked **Ano.**”(Exhibit 4)

Ms. Hook testified that she did not believe the question related to the crime she was charged with.

LEGAL ANALYSIS

Section 40-58-55 (3) states, in pertinent part:

The department may refuse to license an applicant or refuse to renew a license if it finds, after notice and a hearing pursuant to the Administrative Procedures Act, that the applicant or his agent has:

(3) been convicted of a felony *or* of an offense involving breach of trust, moral turpitude, fraud, *or* dishonest dealing within the past ten years. . . .
(Emphasis added)

Likewise, *S. C. Code Ann.* ' 40-58-80 (F) (Supp. 1998) addresses individual employees working for brokers:

The administrator of the department may suspend the right of an individual to engage in mortgage loan broker activity after finding that an employee of a licensed mortgage loan broker has failed to comply with a provision of this chapter.

A crime of moral turpitude is defined as:

. . . an act of baseness, vileness or depravity in the private and social duties which man owes to his fellowman, or to society in general, contrary to the accepted and customary rule of right and duty between man and man. . .

State v. Yates, 280 S.C. 29, 310 S. E. 2d 805 (1982).

Larceny or robbery have been recognized by the Supreme Court of South Carolina as a crime of moral turpitude. *State v. Corn*, 215 S.C. 166, 54 S. E. 2d 559 (1949). Clearly that robbery was attempted at gunpoint, with the threat of violence accompanying it, would serve to exacerbate rather than mitigate it. I note further that the person against whom the robbery was attempted was apparently a mortgage broker or an employee of some sort of mortgage company.

I am somewhat unclear on the result Respondent would like to see. Ms. Hook indicated that she understood the question on the Supplemental Form A to relate to embezzlement or like crimes. This is somewhat difficult to fathom given the clear language of the question in the Supplemental Form A. Even if I fully accepted this subjective understanding of the question as credible, this would not relieve the problem of the underlying conviction. Moreover, based on the testimony of Ms. Wynn, it appears that Respondent is terminated from employment with Alpha Omega Group, LLC for reasons unrelated to the conviction. There is no evidence of record to indicate that any licensed broker currently seeks to employ Respondent Hook.

FINDINGS OF FACT

1.) Respondent Hook was served with the Notice of Hearing and Petition in this matter on or about August 30, 1999 (Affidavit of Service, Exhibit 1).

2.) On or about December 16, 1998, Respondent Hook pled guilty to the charge of attempted robbery armed with a deadly weapon (Exhibit 5).

3.) On or about March 9, 1999, Respondent Hook signed a notarized Supplemental Form A. That form contained the question:

Have you ever been convicted of a felony or an offense involving breach of

trust, moral turpitude or dishonest dealings within the past ten years?
Provide details about the offense, including conviction date, court, penalty
and attach a certified copy of the Criminal Docket Sheet and the
Presentence Investigation Report.

Her checked response to this question was ~~Ano.~~@

CONCLUSIONS OF LAW

- 1.) Respondent was timely served with the Notice and Petition.
- 2.) Attempted robbery while armed with a deadly weapon is a felony, and is also an offense involving moral turpitude or dishonest dealing as set forth in *S. C. Code Ann.* ' 40-58-55 (3).
- 3.) By signing and the Supplemental Form A and allowing Alpha Omega Group to file it on her behalf, Respondent Hook withheld material information or made a material misstatement in connection with an application to do business as a mortgage broker, as set forth in *S. C. Code Ann.* ' 40-58-55 (2). This is true regardless of whether or not I give credence to Respondent's claim that she subjectively understood the question to relate to other crimes.
- 4.) Respondent's conviction reflects adversely her general character and fitness to engage in the mortgage loan broker business.

IT IS THEREFORE ORDERED that Respondent Maria Yolán Hook CEASE and DESIST any and all mortgage loan broker activity, pursuant to *S. C. Code Ann.* ' 40-58-80 (A).

IT IS FURTHER ORDERED that Respondent Maria Yolán Hook's right to engage in mortgage loan broker activity for any broker is hereby suspended pursuant to *S. C. Code Ann.* ' 40-58-80 (F).

AND IT IS SO ORDERED.

Columbia, S.C.

_____, 1999

Philip S. Porter
Administrator